EXHIBIT 1

REDACTED PUBLIC VERSION

1   UNITED STATES DISTRICT COURT

2   NORTHERN DISTRICT OF CALIFORNIA

3   SAN JOSE DIVISION

4   --------------------------X

5   CISCO SYSTEMS, INC.,

6   Plaintiff,

7   v.   Case No.:

8   ARISTA NETWORKS, INC.,   5:14-cv-05344-BLF (PSG)

9   Defendant.

10   --------------------------X

11

12

13   HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

14

15   VIDEOTAPED DEPOSITION OF JEFFREY WHEELER

16   November 12, 2015

17   9:33 a.m. - 5:55 p.m.

18   Richmond, Virginia

19

20

21

22   Job No. 2183991

23   REPORTED BY:

24   Kimberly L. Ribaric, RPR, CCR

25   PAGES 1 - 255

                                        Page 1

1   Deposition of JEFFREY WHEELER, held at the

2   law office of:

3

4   Troutman Sanders LLP

5   1001 Haxall Point

6   Richmond, Virginia   23219

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12   Pursuant to agreement, before KIMBERLY L.

13   RIBARIC, Registered Professional Reporter,

14   Certified Court Reporter and Notary Public in and

15   for the Commonwealth of Virginia at large.

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 1       APPEARANCES OF COUNSEL:

 2

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18                   Counsel for Defendant

19

20

21

22

23       ALSO PRESENT:

24          REID ATTAWAY, Videographer

25
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Page 3

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 1                        I N D E X

 2    WITNESS:  JEFFREY WHEELER                       PAGE

 3        Examination By Mr. Krishnan                    7

 4

 5                      E X H I B I T S

 6    DEFENDANT EXHIBIT                                PAGE

 7        Exhibit 17    Résumé of Jeffrey Wheeler       18

 8        Exhibit 18    Defendant Arista Networks,

 9                      Inc.'s Notice of Subpoena to

10                      Jeffrey Wheeler                  64

11        Exhibit 19    UC 4.2s Feature Matrix dated

12                      10/22/99                         98

13        Exhibit 20    Execution Commit               121

14        Exhibit 21    QuickConfig Installation       130

15                      Utility

16        Exhibit 22    Feature Functional

17                      Specification For R4.1 UM CLI

18                      Feature Number 4.1.2.8         132

19        Exhibit 22-A  Metadata                       133

20        Exhibit 23    UM CLI For R4.1 Internal Design 151

21        Exhibit 23-A  Metadata                       151

22        Exhibit 24    UMCLI                          175

23        Exhibit 24-A  Metadata                       175

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1   E X H I B I T S

2   DEFENDANT EXHIBIT   (CONTINUED)   PAGE

3   Exhibit 25   Cisco Unified Communications

4   Architecture   175

5   Exhibit 26   United States Patent No.

6   7,047,526 B1   175

7   Exhibit 27   Amteva notebook   175

8   Exhibit 28   Compilers, Principles,

9   Techniques, and Tools   175

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1   (November 12, 2015, 9:33 a.m.)

2   JEFFREY WHEELER,

3   the Witness, called for examination, having been

4   first duly sworn according to law, was examined

5   and testified as follows:

6   - - -   09:33:13

7   THE VIDEOGRAPHER: Good morning. We are   09:33:13

8   now on the record. The approximate time is   09:33:27

9   9:33 a.m. on November 12th, 2015. This is the 09:33:30

10   video recorded deposition of Jeffrey Wheeler. 09:33:36

11   My name is Reid Attaway, here with court   09:33:39

12   reporter Kim Ribaric, we are here from   09:33:41

13   Vertitext Legal Solutions at the request of   09:33:44

14   counsel for the defendant.   09:33:45

15   This deposition is being held at   09:33:46

16   1001 Haxall Point in Richmond, Virginia.   09:33:50

17   The caption of this case is Cisco Systems   09:33:51

18   versus Arista Networks.   09:33:54

19   Please note that audio and video   09:33:56

20   recording will take place unless all parties   09:33:59

21   agree to go off the record. Microphones are   09:34:03

22   sensitive and may pick up whispers, private   09:34:03

23   conversations and cellular interference.   09:34:03

24   I am not authorized to administer an   09:34:08

25   oath, and I am not related to any party in   09:34:11

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

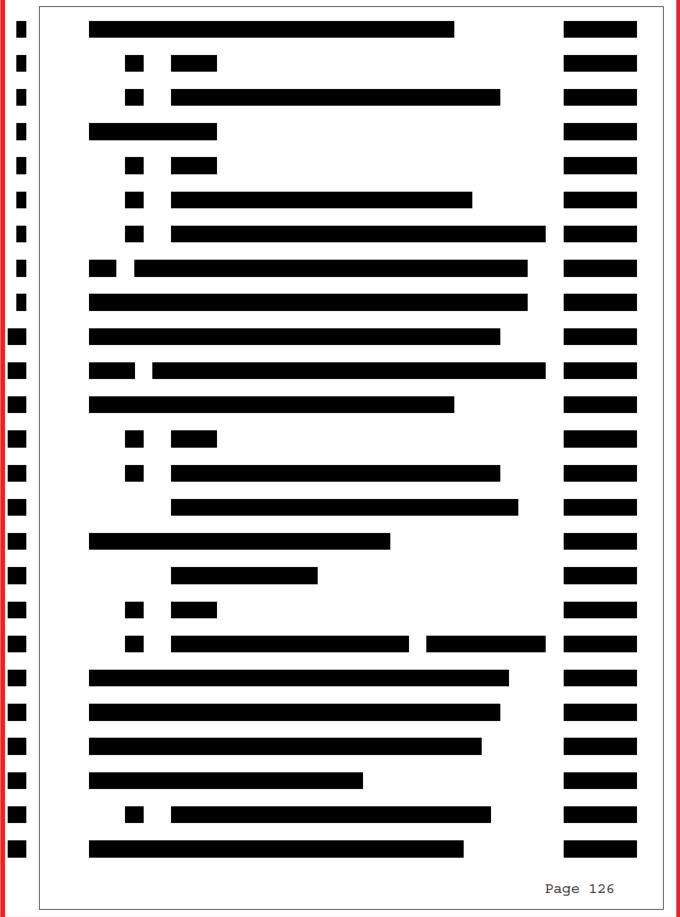| 1 | this action, nor am I financially interested | 09:34:13 |
2	in the outcome in any way.	09:34:16
3	If there are any objections to	09:34:18
4	proceeding, please state them at the time of	09:34:19
5	your appearance, beginning with the noticing	09:34:22
6	attorney.	09:34:25
7	MR. KRISHNAN: Ajay Krishnan from Keker &	09:34:25
8	Van Nest, for Arista.	09:34:26
9	MR. TUNG: Mark Tung from Quinn Emanuel,	09:34:28
10	for Cisco.	09:34:30
11	THE VIDEOGRAPHER: Thank you. The	09:34:31
12	witness will be sworn in and counsel may begin	09:34:33
13	examination.	09:34:33
14	- - -	09:34:33
15	JEFFREY WHEELER,	09:34:33
16	WAS SWORN AND TESTIFIED AS FOLLOWS.	09:34:33
17	- - -	09:34:44
18	MR. KRISHNAN: Good morning, Mr. Wheeler.	09:34:44
19	THE WITNESS: Good morning.	09:34:46
20	- - -	09:34:47
21	EXAMINATION	09:34:47
22	BY MR. KRISHNAN:	09:34:47
23	Q. Could you please state your address.	09:34:48

Page 7

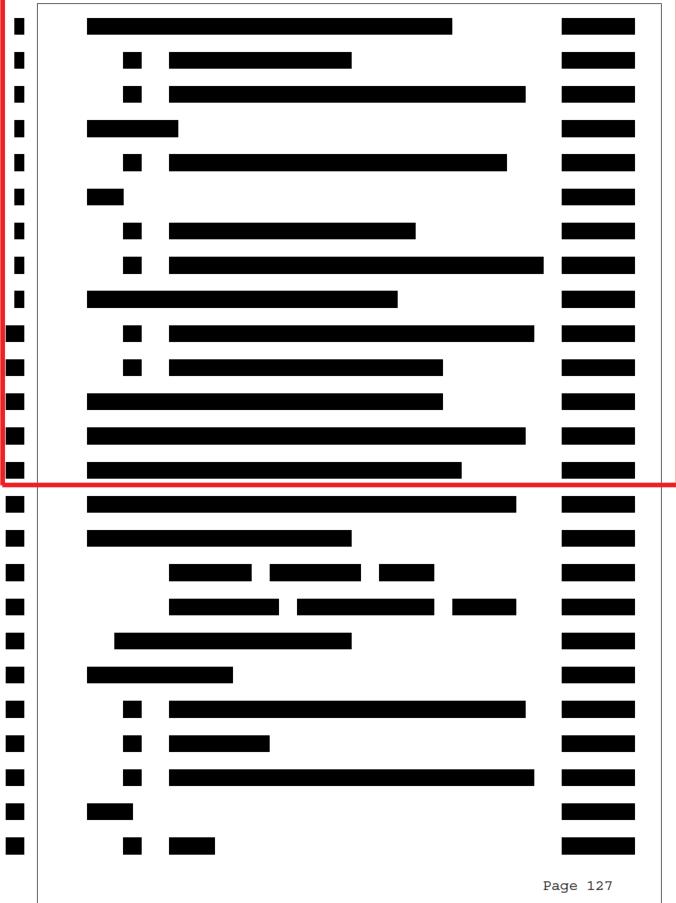|		
1	A. I don't have enough knowledge of the Bay	12:00:23
2	tool to say all the differences or the number of	12:00:26
3	differences.	12:00:29
4	Q. Okay. Well, let's talk about maybe the	12:00:30
5	other Cisco routers that you were familiar with.	12:00:34
6	A. Okay.	12:00:38
7	Q. They also had OA&M tools; correct?	12:00:38
8	A. They had -- or if you're referring to the	12:00:41
9	CLI for -- for Cisco?	12:00:45
10	Q. Yes.	12:00:46
11	A. Yeah, they had a CLI, and it allowed you	12:00:47
12	to do administrative functions and monitoring	12:00:50
13	functions.	12:00:56
14	Q. Okay. And the Cisco CLI you're referring	12:00:57
15	to is IOS CLI?	12:01:00
16	A. Correct.	12:01:04
17	Q. Okay. And that's sort of the	12:01:05
18	Cisco-branded CLI?	12:01:06
19	A. Sure.	12:01:07
20	Q. Okay. And that CLI, what types of OA&M	12:01:08
21	tools were accessible through that CLI?	12:01:13
22	A. You could restart the box. You could go	12:01:17
23	into an able mode. You could see statistics and	12:01:24
24	counters. You could look at the version of the --	12:01:30
25	of the IOS and the hardware. You could, you know,	12:01:35

Page 86

1	Q. But putting that distinction aside	12:03:38
2	between what level of the OSI protocol the OA&M	12:03:41
3	tools were operating at, the Cisco IOS CLI also	12:03:46
4	was a single entry point for administering the	12:03:55
5	sort of downstream OA&M tools that it managed?	12:04:00
6	A. It was focused, yeah, on administering	12:04:06
7	that -- at administrating the UM system and -- and	12:04:09
8	executing other tools within the UM system to	12:04:17
9	accomplish OA&M functions.	12:04:21
10	Q. Okay. So are -- you're talking there	12:04:23
11	about UM CLI --	12:04:25
12	A. UM CLI. You asked about UM CLI?	12:04:26
13	Q. I'm sorry. I was asking about IOS CLI.	12:04:28
14	A. Okay. I'm sorry. I heard that.	12:04:31
15	Q. Putting aside the distinction between	12:04:31
16	what level the OA&M tools we're working at, the	12:04:34
17	IOS CLI also offered a single entry point --	12:04:40
18	A. Oh. Okay.	12:04:40
19	Q. -- interface to deal with whatever OA&M	12:04:41
20	tools it was managing; right?	12:04:44
21	A. Correct.	12:04:46
22	Q. Okay. Did the IOS CLI have a -- did it	12:04:46
23	use generic commands to administer these OA&M	12:04:52
24	tools?	12:04:57
25	MR. TUNG: Object to the extent it calls	12:04:57

Page 88

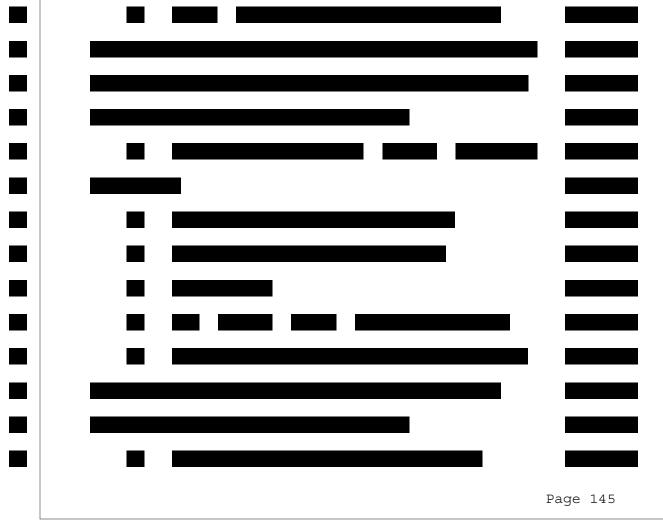|		
1	for a legal conclusion.	12:04:59
2	THE WITNESS: What do you mean by	12:05:00
3	"generic commands"?	12:05:04
4	BY MR. KRISHNAN:	12:05:05
5	Q. You're familiar with the term generic	12:05:06
6	commands in your patent, the '526 patent?	12:05:09
7	A. That --	12:05:11
8	MR. TUNG: Same objection.	12:05:11
9	THE WITNESS: Yeah, that -- that is	12:05:12
10	language that is nothing I use as a -- as an	12:05:14
11	engineer.	12:05:17
12	BY MR. KRISHNAN:	12:05:19
13	Q. Okay. So -- okay. Well, let's -- let's	12:05:24
14	put that aside then.	12:05:24
15	How would you say -- other than the level	12:05:26
16	at which the OA&M tools were operating, how else	12:05:31
17	would you say that the UM CLI solution that you	12:05:39
18	developed was different from the IOS CLI method	12:05:43
19	for administrating the OA&M tools?	12:05:49
20	A. The UM CLI tool -- well, besides the fact	12:05:53
21	that it worked at a different layer, the tool	12:06:02
22	could -- it had a auto completion feature, which	12:06:09
23	you could begin typing characters, and then it	12:06:15
24	would try to make the best match based on what	12:06:22
25	characters were typed. I don't believe the U --	12:06:25

Page 89

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Page 126

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

13   MR. KRISHNAN: Okay. I think -- why   02:21:08

14   don't we take a break right there.   02:21:09

15   THE WITNESS: Okay.   02:21:10

16   THE VIDEOGRAPHER: We are going off the   02:21:11

17   video record at 2:21 p.m.   02:21:14

18   (Proceedings recessed at 2:21 p.m., and   02:21:19

19   reconvened at 2:32 p.m.)   02:27:29

20   THE VIDEOGRAPHER: This is the beginning   02:31:56

21   of Disc 3. We are back on the record at   02:32:27

22   2:32 p.m. Counsel may proceed.   02:32:31

23   BY MR. KRISHNAN: 02:32:33

24   Q.   Okay. You're familiar with the term   02:32:42

25   "generic commands" from your '526 patent?   02:32:44

Page 144

1	MR. TUNG: Objection to the extent it	02:32:49
2	calls for a legal conclusion.	02:32:49
3	THE REPORTER: I didn't hear you.	02:32:49
4	THE WITNESS: I've read those -- that --	02:32:49
5	MR. TUNG: Legal conclusion.	02:32:55
6	THE WITNESS: I've read that phrase in	02:32:55
7	there.	02:32:57
8	BY MR. KRISHNAN:	02:32:57
9	Q. Okay.	02:32:58
10	A. I don't know what it -- particular	02:32:58
11	referring to, but --	02:33:02

Page 145

1	BY MR. KRISHNAN:	05:20:09
2	Q. Correct.	05:20:13
3	A. That is just a -- a common way to list	05:20:16
4	the ones that all came after it. Object would be	05:20:23
5	replaced by base or app or H.323 or TNT. So --	05:20:30
6	oh, minus T -- oh, with a minus T. So each --	05:20:39
7	okay.	05:20:42
8	So each of those developer tools, the	05:20:43
9	view tools, if you gave it a T option, it would --	05:20:50
10	it would tell you how often it was going to	05:20:54
11	refresh itself.	05:20:59

Page 231

Page 232

[Redacted]

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10        Q.    Okay.                              05:26:02

11        A.    But I could -- I could be wrong on that.   05:26:02

12        Q.    Okay.  So I guess what I'm wondering is    05:26:05

13   if someone just came across this patent in like       05:26:08

14   2001 or 2002 or 2005, and they were interested in     05:26:12

15   knowing about what these old command line syntax      05:26:17

16   functions did, how would they go about learning       05:26:23

17   about that?                                            05:26:33

18        A.    I -- that's -- can you be more specific?   05:26:34

19   The question's kind of vague to me.  I don't          05:26:39

20   understand.  You -- in what aspects are you trying    05:26:43

21   to -- just clarify your question, if you don't        05:26:47

22   mind.                                                  05:26:50

23        Q.    Yeah.  How is anyone reading this patent   05:26:51

24   supposed to know that -- what these commands in       05:26:54

25   the old command line syntax were or what they did?   05:26:58
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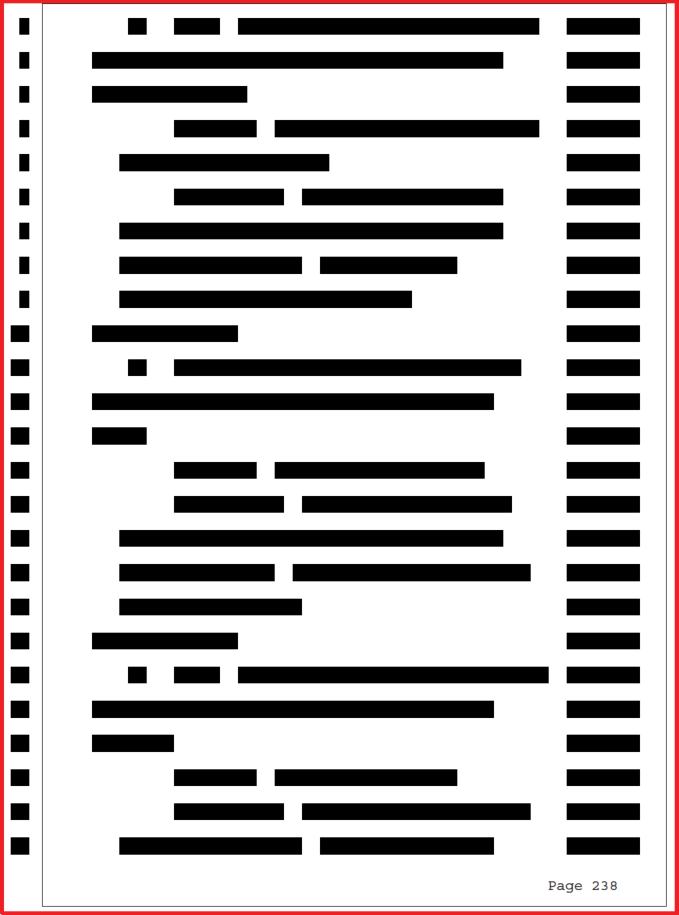
Page 234

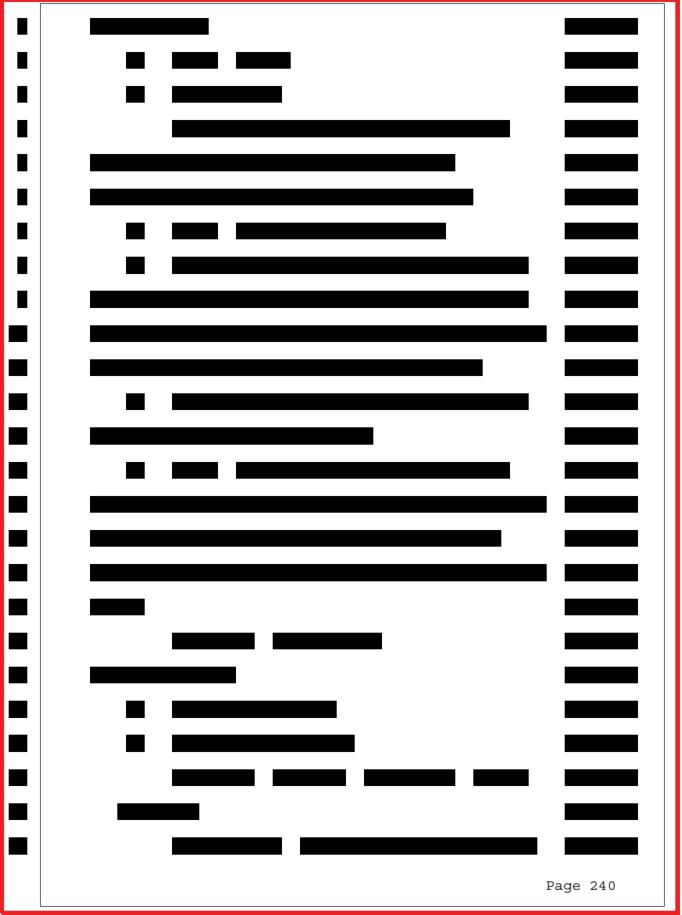HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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 1        A.    That would be interpreting the language    05:27:03

 2   of the patent.  I would just say that in the --       05:27:10

 3   they would -- okay.  If -- if they read this,         05:27:32

 4   columns 5 and 6, and they had maybe read the          05:27:39

 5   documentation or been to training, they would know    05:27:47

 6   what some of these words, like base TNT and H.323     05:27:51

 7   mean, so that would probably given them a clue        05:27:59

 8   that these commands could help see what's going on    05:28:03

 9   in that process.                                      05:28:06

10        Q.    And what training are you referring to?    05:28:07

11        A.    If there was any unified messaging or      05:28:10

12   unified communication training.  There was several    05:28:14

13   courses that were offered, including a operations     05:28:17

14   troubleshooting course.                               05:28:21
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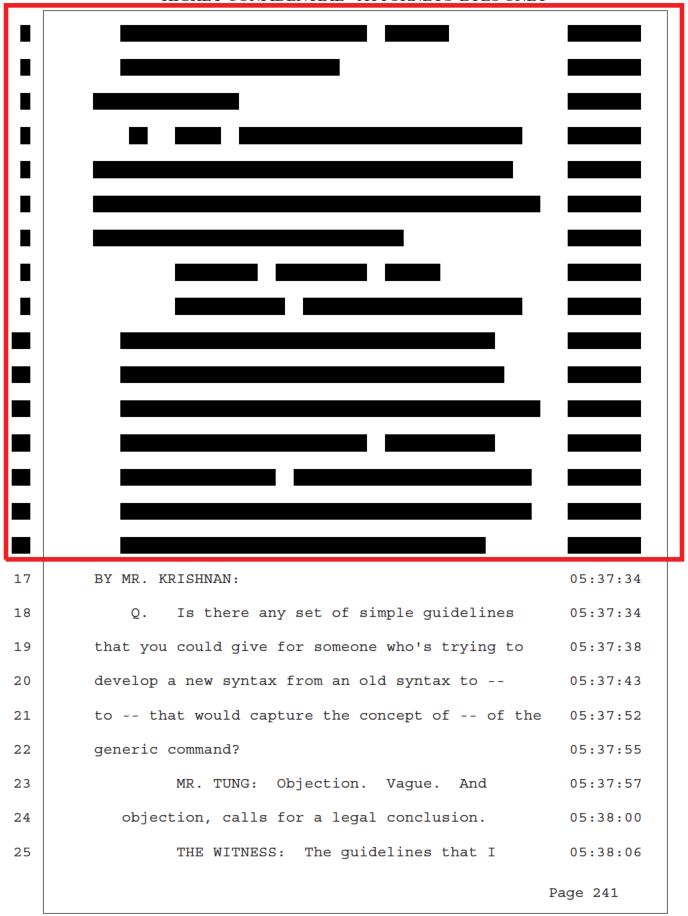
Page 235

2	Q. Okay. And sort of a related question is:	05:29:17
3	How is someone who is just reading this patent	05:29:21
4	even supposed to know that the UM CLI product is	05:29:25
5	the one that's referenced here in columns 5 and 6?	05:29:29
6	A. Well, columns -- the second column is the	05:29:33
7	syntax that UM CLI require -- used. So if they	05:29:39
8	saw this syntax and matched it with the UM	05:29:45
9	customer documentation, they would know that	05:29:51
10	that's related to UM CLI.	05:29:53
11	Q. Was the UM CLI syntax well known in	05:29:55
12	the -- in the field?	05:30:00
13	MR. TUNG: Objection. Vague.	05:30:01
14	THE WITNESS: It was -- it was	05:30:06
15	documented. So well known -- if people	05:30:07
16	administered UM systems, they went to our	05:30:10
17	training, then yes, they would have known	05:30:13
18	about it.	05:30:15
19	BY MR. KRISHNAN:	05:30:15
20	Q. Okay. You said if someone were to match	05:30:16
21	the syntax in column 2 with the --	05:30:19
22	A. Documentation.	05:30:25
23	Q. And that documentation is documentation	05:30:27
24	from Cisco; right?	05:30:28
25	A. Yeah, that's our documentation that we	05:30:30

Page 236

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Page 240

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

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17        BY MR. KRISHNAN:                              05:37:34

18            Q.    Is there any set of simple guidelines   05:37:34

19        that you could give for someone who's trying to  05:37:38

20        develop a new syntax from an old syntax to --     05:37:43

21        to -- that would capture the concept of -- of the 05:37:52

22        generic command?                                  05:37:55

23                MR. TUNG:   Objection.   Vague.   And      05:37:57

24            objection, calls for a legal conclusion.       05:38:00

25                THE WITNESS:   The guidelines that I       05:38:06
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Page 241

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

1   pre-1996 development of the UM product, you didn't   05:54:52

2   tell Kirkland anything in either the phone call or   05:54:58

3   the meeting that you haven't testified to today?   05:55:01

4   A.   Yeah, I don't recall anything besides   05:55:04

5   that that was -- that was different. There was   05:55:15

6   more covered today than there was in those   05:55:19

7   conversations.   05:55:22

8   MR. KRISHNAN: Okay. I don't have any   05:55:23

9   further questions. Thank you.   05:55:24

10   THE WITNESS: Okay.   05:55:26

11   MR. TUNG: So I want to designate the   05:55:26

12   transcript highly confidential, attorneys'   05:55:29

13   eyes only, and reserve our rights under the   05:55:36

14   federal rules to submit errata. And I think   05:55:39

15   we're done.   05:55:39

16   THE VIDEOGRAPHER: This is the end of   05:55:41

17   Disc 4 and end of the deposition. We are   05:55:43

18   going off the record at 5:55 p.m.   05:55:45

19   - - -

20   (Deposition concluded, 5:55 p.m.)

21   - - -

22   (Signature reserved.)

23

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Page 253

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 1              COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

 2          I, Kimberly L. Ribaric, Registered Professional

 3      Reporter, Certified Court Reporter and Notary

 4      Public in and for the Commonwealth of Virginia at

 5      Large, and whose commission expires August 31,

 6      2016, do certify that the aforementioned appeared

 7      before me, was sworn by me, was thereupon examined

 8      by counsel, that review was requested; and that

 9      the foregoing is a true, correct, and full

10      transcript of the testimony adduced.

11          I further certify that I am neither related to

12      nor associated with any counsel or party to this

13      proceeding, nor otherwise interested in the event

14      thereof.

15          Given under my hand and notarial seal at

16      Fluvanna County, Virginia, this 24th day of

17      November 2015.

18

19

20              Kimberly L. Ribaric, RPR, CCR

21          Notary Public Registration No. 348266

22   I was commissioned a notary public as Kimberly L. Krett

23          Commonwealth of Virginia at Large

24

25
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Page 254

1   I declare under penalty of perjury

2 under the laws that the foregoing is

3 true and correct.

4

5   Executed on _____ , 20___,

6 at _____, _____.

7

8

9

10

11   _____

12   JEFFREY WHEELER

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